

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREW E. SANFORD,
Petitioner,
v.
BIRD,
Respondent.

No. 2:22-cv-1304 KJM AC P

ORDER

Petitioner, a state prisoner proceeding pro se and in forma pauperis with a petition for writ of habeas corpus, has filed a request for clarification. ECF No. 23. This filing first asserts that respondent is mistaken that Grounds Six and Seven of his petition are unexhausted, and then requests clarification regarding his state appeal. Id. The assertion of non-exhaustion to which petitioner refers was made in respondent's reply to petitioner's response to an order to show cause regarding a different procedural issue, timeliness. See ECF No. 17. That reply noted, in a footnote, that if respondent was ordered to answer the federal petition, "Respondent intends to move for dismissal because claims six and seven are unexhausted." Id. at 2 n.4. Respondent was subsequently ordered to respond to the petition for writ of habeas corpus, ECF No. 19, but has not yet done so and the time to do so has not yet expired.


Petitioner is advised that if and when respondent files a motion to dismiss Grounds Six and Seven of the petition as unexhausted, he will then have the opportunity to file an opposition

1 to the motion that makes any arguments and present any evidence supporting his claim that those
2 claims are exhausted. The statements about exhaustion in petitioner's most recent filing will be
3 disregarded.

4 With respect to petitioner's request for clarification regarding state court rules for raising
5 issues on direct appeal or in a habeas petition, the court cannot provide petitioner with legal
6 advice.

7 Accordingly, IT IS HEREBY ORDERED that petitioner's request for clarification (ECF
8 No. 23) is GRANTED to the extent clarification has been provided above and is otherwise
9 DENIED.

10 DATED: May 8, 2023

11 
12 ALLISON CLAIRE
13 UNITED STATES MAGISTRATE JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28